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FIDELITY NATIONAL TITLE INSURANCE COMPANY

8
9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF NEVADA**

11 U.S. BANK, NATIONAL ASSOCATION,

12 Plaintiff,

13 vs.

14 FIDELITY NATIONAL TITLE
15 INSURANCE COMPANY, et al.,

16 Defendants.

Case No.: 2:19-cv-00584-JCM-NJK

**STIPULATION AND ORDER TO
EXTEND DISCOVERY DEADLINES**

(First Request)

1 Plaintiff U.S. Bank National Association, as Successor Trustee to Wachovia Bank, N.A.,
2 as Trustee for the Certificateholders of the MLMI Trust, Mortgage Loan Asset-Backed
3 Certificates, Series 2005-A8 (“U.S. Bank”) and specially appearing Defendant Fidelity National
4 Title Insurance Company (“Fidelity,” and with U.S. Bank, the “Parties”), by and through their
5 counsel of record, hereby submit their Stipulation to Extend Discovery Deadlines by twenty-eight
6 (28) days in accordance with Local Rule 26-4 and Local Rule IA 6-1.

7 In accordance with Local Rule 26-4, this Stipulation has been brought in good faith, with
8 good cause, is the first request for an extension of time to the discovery deadlines and is not
9 intended to cause delay.

10 **(a) A statement specifying the discovery completed:**

11 On September 18, 2019, Fidelity and U.S. Bank conducted the Fed. R. Civ. P. 26(f)
12 conference. Thereafter, Fidelity and U.S. Bank promptly submitted their proposed Joint
13 Discovery Plan and Scheduling Order on September 23, 2019 [ECF No. 13]. On September 24,
14 2019, the Court entered the Discovery Plan and Scheduling Order [ECF No. 14] with the
15 following deadlines:

- 16 • Initial disclosures: October 11, 2019;
- 17 • Amend pleadings/add parties: October 23, 2019;
- 18 • Initial experts: November 22, 2019;
- 19 • Interim status report: November 22, 2019;
- 20 • Rebuttal experts: December 20, 2019;
- 21 • Discovery cutoff: January 21, 2020;
- 22 • Dispositive motions: February 20, 2020; and
- 23 • Joint proposed pretrial order: March 23, 2020, or 30 days after resolution of
24 dispositive motions.

25 Thereabouts and thereafter, the Parties completed the following discovery:

- 26 • U.S. Bank’s Initial Disclosures and Document Production, October 11, 2019;
- 27 • Fidelity’s Initial Disclosures, October 11, 2019;
- U.S. Bank’s First Set of Interrogatories to Fidelity, October 22, 2019;

- U.S. Bank's First Set of Requests for Admissions to Fidelity, October 22, 2019;
- U.S. Bank's First Set of Requests for Production to Fidelity, October 22, 2019;

(b) A specific description of the discovery that remains to be completed:

The Parties need to conduct the following discovery:

- The Parties' initial expert disclosure;
- The Parties' rebuttal expert disclosure;
- Subpoenas to third parties;
- Fidelity's Responses to U.S. Bank's First Set of Interrogatories, Requests for Production, and Requests for Admission, currently due on November 25, 2019;
- Written discovery from Fidelity to U.S. Bank;
- Deposition of Fidelity's Rule 30(b)(6) designee;
- Deposition of U.S. Bank's Rule 30(b)(6) designee;
- Depositions of various fact witnesses and experts; and
- Such other discovery that may be deemed necessary or appropriate.

(c) The reasons why the deadline was not satisfied or the remaining discovery was not completed within the time limits set by the discovery plan:

The Parties are requesting a 28-day extension to the discovery deadlines because Fidelity's counsel only recently became aware that it has multiple trials that are confirmed for November 25, 2019 and December 3, 2019 on other matters, and need additional time to work with its expert prior to the current initial expert disclosure deadline of November 22, 2019. Additionally, counsel for U.S. Bank will be out-of-town beginning November 26, 2019, returning to the office on December 9, 2019. Given that both U.S. Bank and Fidelity utilize the same respective experts in a handful of matters pending before the Court and there are several expert report deadlines in December upon counsel for U.S. Bank's return on December 9, 2019, the Parties request a 28-day extension to the discovery deadlines so that the new initial expert disclosure deadline falls on December 20, 2019.

In accordance with Local Rule 26-4, good cause exists for this extension as Fidelity's counsel only recently learned that the trials set for November 25, 2019 and December 3, 2019,

1 will be going forward and need additional time to work with the expert before the current initial
2 expert disclosure deadline of November 22, 2019. The current deadline of November 22, 2019
3 does not provide Fidelity's counsel and its expert enough time to prepare and produce its initial
4 expert report given that Fidelity is currently undergoing trial preparations. An extension of 28-
5 days would afford the Parties' counsel and experts sufficient opportunity to prepare, finalize, and
6 produce their expert reports in this matter in light of Fidelity's counsel's upcoming trials, the
7 Thanksgiving holiday and U.S. Bank's counsel's pre-planned trip.

8 **(d) A proposed schedule for completing all remaining discovery.**

9 The Parties request that current Discovery Plan and Scheduling Order [ECF No. 14], be
10 amended as follows:

- 11 1. Last Day to Disclose Initial Expert Report: currently November 22, 2019, **desired**
12 **December 20, 2019;**
- 13 2. Last Day to Disclose Rebuttal Experts: currently December 20, 2019, **desired**
14 **January 17, 2020;**
- 15 3. Last Day to Complete Discovery: currently January 21, 2020; **desired February 18,**
16 **2020;**
- 17 4. Last Day to File Dispositive Motions: currently February 20, 2020; **desired March 19,**
18 **2020;** and
- 19 5. Last Day to File Joint Pre-Trial Order: currently March 23, 2020, **desired April 20,**
20 **2020.** In the event dispositive motions are filed, the date for filing the joint pretrial
21 order shall be suspended until thirty (30) days after a decision of the dispositive
22 motions. The disclosures required by FRCP 26(a)(3), and any objections thereto, shall
23 be included in the pretrial order.

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1 **IT IS SO STIPULATED.**

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3 DATED this 18th day of November, 2019.

4 **WRIGHT, FINLAY & ZAK, LLP**

5 /s/ Lindsay D. Robbins
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10 *Attorneys for Plaintiff, US Bank*
11 *National Trust Company, as*
12 *Indenture Trustee, on Behalf of the*
13 *Holders of the Accredited Mortgage*
14 *Loan Trust 2004-3 Asset-Backed*
15 *Notes*

16 DATED November 19, 2019

DATED this 18th day of November, 2019.

**EARLY SULLIVAN WRIGHT GIZER &
McRAE LLP**

/s/ Sophia S. Lau
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Defendant Fidelity National Title
Insurance Company

IT IS SO ORDERED.


UNITED STATES MAGISTRATE JUDGE

